

The Chairman, Christopher Fejes called the meeting to order at 7:30 P.M., on Tuesday, October 16, 2001.

PRESENT: Kenneth Courtney
Christopher Fejes
Marcia Gies
Michael Hutson
Matthew Kovacs
Mark Maxwell
Walter Storrs

Also Present: Mark Stimac
Bob Davisson
Pam Pasternak

ITEM #1 – APPROVAL OF MINUTES OF MEETING OF September 18, 2001

Motion by Courtney
Supported by Gies

MOVED, to approve the minutes of the meeting of September 18, 2001 as written.

Yeas: 7 – All

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – VARIANCE REQUESTED. JACQUES MILOIAN, 1739 COVENTRY, for relief of the Ordinance to construct a shed, which will exceed the maximum allowable square footage for accessory buildings.

Mr. Stimac explained that the petitioner is requesting relief to construct a shed, which will exceed the maximum allowable square footage for accessory buildings. A permit for a 576 square foot detached garage has been issued and is currently under construction on this lot. An application has been submitted to construct a 100 square foot shed, which would result in 676 square feet of accessory buildings. Section 40.57.04 of the Zoning Ordinance limits the total square footage of all accessory buildings at this site to 600 square feet.

This item first appeared before the Board at the meeting of September 18, 2001 and was postponed to allow the Engineering Department to examine the property, to determine if they can help to alleviate the water problem, and also so that the petitioner can present an exact plan of the proposed construction to the Board.

The Engineering Department has inspected the site and recommends that a new catch basin be constructed on the existing rear yard drain located behind the petitioner's property. In addition they recommend that an under-drain be installed to pick up the surface water in front of the shed and pipe it directly to the rear yard drain. Finally, they request that the slab of the new shed be installed so that it is no higher than 4" above the existing grade at the front of the building to minimize the need for any additional fill.

ITEM #2 – con't.

Mr. Jacques Miloian was present and stated that he had brought in an approval of his request from his neighbors at 1780 Coventry Drive.

Mr. Maxwell asked if the changes needed to be made before the construction of the additional structure and Mr. Stimac stated that these changes would help to minimize the flooding in the area. Mr. Stimac went on to say that this area is extremely flat and is made up of mostly hard clay and drainage has always been a problem. Mr. Stimac said that the intent of the recommendations made by the Engineering Department, was to offset any impact caused by the construction of new building, and that the City would not mandate these changes if the building were not built. Mr. Maxwell then asked who would be responsible for the financial burden of these changes and Mr. Stimac stated that since the additional drainage work was to offset the impact of the new construction, the petitioner would be responsible.

Motion by Courtney
Supported by Gies

MOVED, to grant Jacques Miloian, 1739 Coventry, relief of the Ordinance to construct a shed, which will exceed the maximum allowable square footage for accessory buildings.

- The shed shall abut the garage or be placed not less than 8' from the garage.
- The entrance to the shed will be at ground level
- No concrete, or any other impediment to the flow of water, shall be placed between the garage and the shed.
- Variance as granted is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

Yeas: 5 - Gies, Hutson, Storrs, Courtney, Fejes
Nays: 2 – Kovacs, Maxwell

MOTION TO APPROVE REQUEST WITH STIPULATIONS CARRIED

ITEM #3 – VARIANCE REQUESTED. JAX CAR WASH, 2823 W. MAPLE, for relief to expand a legal non-conforming use in the B-3 Zoning District.

Mr. Stimac explained that the petitioner is requesting relief to expand a legal non-conforming use in the B-3 Zoning District by installing new gas tanks and gas pump islands.

This property is located in the B-3 (General Business) Zoning District. The required zoning classification for a car wash (with or without gasoline sales) is H-S (Highway Service). At the time this facility was constructed, car washes with gasoline sales were a permitted use in the B-3 Zoning District. The ordinance was subsequently changed to

ITEM #3 – con't.

move these uses to the H-S classification. As such, the existing use of the property as a car wash is a legal non-conforming use.

In April 2000 the gas pumps and supply tanks were removed from this facility. At that time that portion of the non-conforming use ceased to exist. Since the gasoline sales activity on this site has ceased for a period exceeding six months, that portion of the operation lost its legal non-conformance status per Paragraph E of Section 40.50.05, and the reconstruction of the gas pumps would constitute the expansion of the non-conforming use. Paragraph A of Section 40.50.05 of the Troy Zoning Ordinance prohibits the expansion of a non-conforming use.

Mr. Bruce Larson, president of Larson Equipment Company was present and stated that his company was proposing to install the new gas tanks at this location. Mr. Larson stated that this property was sold to a national car wash company, and at that time the new owners could not meet the state guidelines for underground tanks, and therefore removed the old tanks. Recently the property was re-purchased by the original owner, Mr. Bruce Milar, who wished to get back into the petroleum retail business. Mr. Larson went on to say that they have shown the ability to stack forty (40) vehicles awaiting service at the car wash, and that the area is always kept clean.

Mr. Fejes asked if the new tanks would be in compliance and Mr. Larson stated that they surpass the state requirements. Mr. Kovacs asked if Mr. Milar knew he would have to get a variance to re-install the tanks at the time he re-purchased this property, and Mr. Larson stated that he did not.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

Mr. Storrs asked why the property was purchased back, and Mr. Milar stated that it was an opportunity for him to get back into the car wash business

Mr. Hutson voiced concern over this proposal establishing a use not permitted in the zoning district as the principal use of the property. He noted that the Ordinance is very restrictive in that matter.

Motion by Hutson

Supported by Courtney

ITEM #3 – con't.

MOVED, to deny the request of Jax Car Wash, 2823 W. Maple to expand a legal non-conforming use in the B-3 Zoning District by installing new gas tanks and gas pump islands.

- Variance would permit the establishment of a prohibited use as the principal use within a zoning district.
- Petitioner has not demonstrated any practical difficulty.

Yeas: 4 – Hutson, Storrs, Courtney, Gies

Nays: 3 – Kovacs, Maxwell, Fejes

MOTION TO DENY REQUEST CARRIED

ITEM #4 – VARIANCE REQUESTED. KIMBERLEE PORTER, 106 CHOPIN, for relief of the side yard setback to construct a detached garage.

Mr. Stimac explained that the petitioner is requesting relief to construct a detached garage. Section 40.57.05 of the Zoning Ordinance requires a 6' minimum setback to side and rear property lines. The site plan submitted indicates that the proposed garage would be constructed with a 3' side-yard setback from the west property line.

Kimberlee Porter was present and stated that her lot is only 40 feet wide and backing out of the garage would be very difficult with a 6' side yard setback. Ms. Porter went on to say that her home does not have a basement and she would also use the garage for the storage of her yard equipment, a bike and a snow blower.

Mr. Hutson asked why the petitioner had to go in 3' and Ms. Porter replied that she has a small patio, and if the drive is constructed 6' in, it would run into the patio. Mr. Maxwell stated that it is very difficult to back out of a garage with a 10' driveway. Mr. Storrs asked if Ms. Porter had spoken to the neighbor on the west side of her property, and she stated that she had spoken to the owner and he did not have any objections. Mr. Storrs then asked how she would maintain this 3' strip, and Ms. Porter stated that she was very creative and planned to add shrubs.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one written approval on file. There are no written objections on file.

Motion by Maxwell
Supported by Gies

ITEM #4 – con't.

MOVED, to grant Kimberlee Porter, 106 Chopin relief of the side yard setback to construct a detached garage.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUESTED. MR. & MRS. PETER TREBOLDI, 3097 CASWELL, for relief of the rear yard setback to construct an addition.

Mr. Stimac explained that the petitioner is requesting relief to construct a rear yard addition. The site plan submitted indicates that the proposed addition would result in a rear yard setback of 42'. Section 30.10.02 requires a 45' minimum rear yard setback in the R-1B Zoning District. In 1986 a variance was granted for an addition on another portion of the house and that addition was constructed with a rear yard setback of 38.1 feet. Mr. Stimac also noted that this lot is basically a square being 125 feet on all sides.

Mrs. Kathy Treboldi was present and stated that they want to enlarge their living space, and due to the fact that her elderly mother is living with them, they have to expand out rather than up. Ms. Treboldi explained that her mother has a walker and it is difficult for her to get around.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are three (3) written approvals on file. There are no written objections on file.

Motion by Gies
Supported by Storrs

MOVED, to grant Mr. & Mrs. Peter Treboldi, 3097 Caswell, relief of the rear yard setback to construct an addition.

- The lot is unusually shallow compared to other lots in the area.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.
- Conforming would be unnecessarily burdensome to the petitioner.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #6 – VARIANCE REQUESTED. THOMAS PERSHA, 2032 E. SQUARE LAKE, for relief of the Ordinance to delete the 6' high screen wall along the east side of the site of the new office building at 2032 E. Square Lake.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to delete the 6' high screen wall required along the east side of his office building currently under construction.

The site of the new office building is in the O-1 (Low Rise Office) Zoning classification. The property located adjacent to the east side of the site is zoned R-1D (Single Family Residential). Section 39.10.01 of the Troy Zoning Ordinance requires that a 6-foot high masonry screen wall be placed along the lot line when O-1 zoned sites abut residentially zoned property.

Mr. Thomas Persha was present and stated that although he understands the need to separate Commercial property from Residentially zoned property, he felt that this could be done with the use of natural screening rather than a masonry wall. Mr. Persha went on to say that presently there is quite a bit of screening which the existing shrubs and trees in the area provide. Mr. Persha also said that they plan to add more deciduous plantings in order to fill in any gaps.

Mr. Hutson stated that although he prefers natural screening, he was concerned because the trees that are presently in the area lose their leaves in the winter, and asked Mr. Persha what type of plantings he has in mind. Mr. Persha stated that they plan to put in conifers and cedars, which would remain green all year round.

The Chairman opened the Public Hearing.

Ms. Barbara Grant, 5971 Teakwood, was present and stated that she is in favor of natural screening. Ms. Grant does not feel that a masonry wall would be aesthetically pleasing, and would much rather have the property screened by trees and shrubs.

No one else wished to be heard and the Public Hearing was closed.

Mr. Persha brought in a letter signed by two residents, indicating approval of his request. There is one written approval, with stipulations, on file. There are no written objections on file.

Mr. Maxwell asked what time line Mr. Persha had in mind for the planting of these shrubs. Mr. Persha stated that they wished to plant as many as they could, this fall, and planned to finish the plantings in the spring, if necessary.

Mr. Fejes asked if the landscaping plan would have to be approved by the Parks and Recreation Department. Mr. Fejes expressed concern over the fact that several berms have been put in without Parks and Recreation approval, and have not been done correctly. Mr. Stimac stated that if the Board were in favor of granting the request, there

ITEM #6 – con't.

are guidelines set up by the Parks and Recreation Department, and Mr. Persha could present his plan to the Parks and Recreation Department for approval.

Motion by Kovacs

Supported by Courtney

MOVED, to grant Thomas Persha, 2032 E. Square Lake, a one-year (1) variance for relief of the Ordinance to delete the 6' high screen wall along the east side of the property, where Commercially zoned property abuts Residential zoned property.

- Petitioner shall present landscaping plan to the Parks and Recreation Department for approval.
- One-year variance will allow for new plantings to fill in.
- Variance is not contrary to public interest.

Yeas: All – 7

MOTION TO GRANT VARIANCE FOR ONE-YEAR (1) CARRIED

ITEM #7 – VARIANCE REQUESTED. AMERICAN TOWER CORPORATION AND NEXTELL COMMUNICATIONS, 991 BADDER, for relief of the front yard setback.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to relocate an enclosure fence at their existing communication facility. Section 30.20.09 of the Troy Zoning Ordinance requires a minimum 50 foot front setback in the M-1 (Light Industrial) Zoning District. The site plan submitted indicates that the enclosure fence will be 19.1 feet from the front property line along Badder. The Building Department had received at the same time a request from Nextell to install an equipment building in this area. In order to coordinate these issues, we included language in the public hearing notices to cover variances necessary for both the fence and the building. Subsequently, the petitioner on the building request informed us that they would be revising the location of their building to comply with the setback requirements. Therefore they have withdrawn their request and no action by the Board is necessary at this time regarding the building setback.

Mr. Steve Baker of American Tower Corporation was present and stated that this property does not have sufficient ground space to provide for any additional telecommunication carriers. Mr. Baker stated that they wished to put the fence in this area, in order to make this property more appealing to other carriers. Mr. Baker also said that they are unable to put up this fence on the west side of the property because of the parking lot and cannot move the fence to the north side as the fence is already at the property line on this side. Mr. Baker went on to say that they are trying to gain maximum use of the facility at this location, and he believes this enclosure will help them to achieve this goal.

ITEM #7 – con't.

Mr. Maxwell asked if a second communication tower could be built in this area, and Mr. Baker replied that he thought that before construction, a variance would be required. Mr. Courtney stated that he did not feel a fence would be required until plans for a building were submitted. Mr. Storrs stated that there have been several instances where variances were granted in the area, but that they were held at a 25' setback. Mr. Maxwell stated that he felt that this request was quite large and felt more comfortable with a 25' setback. Mr. Baker stated that he felt that they were being proactive and trying to make the site ready for any communications carrier that might like to have a tower at this location. Mr. Maxwell asked if other carriers had expressed an interest in this location, and Mr. Baker stated that he did not have that information. Mr. Baker went on to say that he thought that Nextell would prefer to be on this side of the property. Mr. Maxwell asked if there was any environmental impact on the surrounding area from these communication towers and Mr. Stimac stated that although there is a great deal of debate of both sides of this issue, he was not aware of any definite impact. Mr. Stimac went on to say that the FCC regulations preclude the denial of telecommunication towers solely on health reasons. He also stated that because each carrier uses a different frequency he was not aware of any increased hazard based upon the cumulative effect of collocating many carriers on the same tower.

Mr. Hutson stated that he was very reluctant to grant this variance, as he does not feel that there is a hardship with the land, and Mr. Maxwell also said that he was concerned about the size of the variance request.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one written objection on file. There are no written approvals on file.

The Chairman noted that he perceived that since the reason for the variance is to allow for additional providers the Board would be reluctant to grant the variance without knowing what the requirements of the providers are. He also noted that if the Board were to deny this request, the petitioner could not reapply for the same thing.

Mr. Baker asked that his request for a variance be withdrawn at this time. No further action on this request taken by the Board.

ITEM #8 – VARIANCE REQUESTED. ELIZABETH ABRO, 6462 JOHN R., for relief of the side yard setback to construct a deck.

Mr. Stimac explained that the petitioner is requesting relief of the side yard setback to construct a deck. The site plan submitted indicates that the proposed deck would result in an 8' side yard setback to the south property line. Currently, there is an 8.22' setback from the house to the north property line. This, along with the proposed deck, would result with a 16.22' total for both side yard setbacks. Section 30.10.05 requires a 20' minimum total for both side yard setbacks in the R-1D Zoning District.

ITEM #8 – con't.

Ms. Elizabeth Abro was present and stated that the shape of their lot is irregular, and also has a large drop at the rear of the garage. Ms. Abro also stated that when Troy Lake was developed they put in a retaining wall in order to make use of their property. Ms. Abro went on to say that the deck would be screened from neighboring property by a line of existing trees, and that the only place the deck would not comply with the Ordinance is where the property slopes down.

Mr. Storrs asked why the deck was out 4' further than the garage and Mr. Stimac explained that in order to comply with the Ordinance, the deck would have to come straight off the end of the garage and this is the area that the property slopes down. Mr. Kovacs asked if the proposed deck would infringe on the rear property setback and Mr. Stimac explained that the rear property line is actually out in the middle of the lake, and therefore the rear yard setback would not be a problem.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are three (3) written approvals on file. There are no written objections on file.

Motion by Courtney
Supported by Kovacs

MOVED, to grant Elizabeth Abro, 6462 John R. relief of the side yard setback to construct a deck.

- Irregular shape of the lot makes conformance to the Ordinance unnecessarily burdensome.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect on surrounding property.

Yeas: 6 – Courtney, Fejes, Gies, Hutson, Kovacs, Maxwell
Nays: 1 – Storrs

MOTION TO GRANT VARIANCE CARRIED

The Board of Zoning Appeals meeting adjourned at 9:00 P.M.

MS/pp